

MEMORANDUM

Agenda Item No. 7(D)

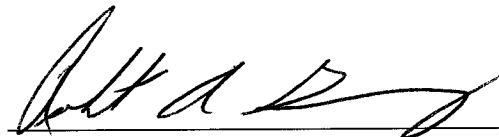
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

(Second Reading 10-18-05)
DATE: July 7, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance changing the
composition of the
disability panel

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Natacha Seijas and Dr. Barbara Carey-Shuler.



Robert A. Ginsburg
County Attorney

RAG/bw

Memorandum



Date: October 18, 2005

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance changing the composition of the disability panel

This ordinance changing the composition of the disability panel will have no fiscal impact on Miami-Dade County.

The ordinance clarifies membership language and incorporates participation from the disabled employee's collective bargaining unit.



Assistant County Manager

cmo06705



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: October 18, 2005

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Agenda Item No. 7(D)

Veto _____

10-18-05

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING SECTIONS 2-56.23 THROUGH 2-56.25 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, CHANGING THE COMPOSITION OF THE DISABILITY PANEL; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Sections 2-56.23 through 2-56.25 of the Code of Miami-Dade County, Florida, are hereby amended to read as follows:¹

Sec. 2-56.23. Definitions.

(a) *Employee* shall mean anyone engaged full time by the Board of County Commissioners of Miami-Dade County and who is paid a salary or wage for services rendered provided he has attained permanent status in the classified service or, if exempt, has completed six (6) months' full-time employment prior to the onset of disability.

(b) *Long-term disability* shall mean a disability of at least eight (8) months' duration, which disability incapacitates an employee from performing the duties of his job classification, and is the proximate result of an accident occurring at some definite time and place while in the actual performance of duty.

(c) *Disability leave* shall be as defined in the personnel rules of Miami-Dade County.

(d) *Disability-date salary* shall mean an employees' gross monthly County salary at the time of incurring a disability.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(e) *County physician* shall mean any physician designated by the Disability Panel.

(f) *Disability Panel* shall mean a committee composed of the ~~[[Insurance and Safety Manager]]~~ >> Director of Risk Management<<, the ~~[[Personnel]]~~ Director >> of the Employee Relations Department<<, ~~[[and]]~~ a representative of the County Manager's office~~[[. A]]~~>>, a<< representative of the disabled employee's department, >> and<< a representative of the ~~[[appropriate]]~~ >> disabled<< employee>>'s<< ~~[[organization]]~~ >> collective bargaining unit<<, if any~~[[, and such others as may be designated by the Disability Panel shall serve as ex officio members without vote]]~~.

(g) *Disability payments* shall mean the payments by the County to an employee>>e<< with a long-term disability.

(h) *Secondary employment* shall mean a disabled individual's employment by the County, or other employer, or self-employment.

Sec. 2-56.24. Long-term benefits.

(A) A County employee who suffers a long-term disability shall be assured an income of sixty-six and two-thirds (66 2/3) percent of his disability-date salary for so long as such disability continues, subject to the following conditions:

(1) The County disability payments shall consist of the difference between all other County-supported disability income payable to the employee and two-thirds of his disability-date salary.

(a) "County-supported disability" income shall include but not be limited to income from ~~[[Workmen's]]~~ >> Workers'<< Compensation, Social Security, State Retirement System, or other applicable State statutes.

(b) In the event of lump sum payment under ~~[[Workmen's]]~~ >> Workers'<< Compensation, disability payments shall be reduced by that portion of the lump sum figure representing the employee's weekly ~~[[Workmen's]]~~ >> Workers'<< Compensation rate based upon his average weekly wage, for the number of weeks determined by dividing that portion of the lump sum figure as herein described by the weekly rate.

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(c) The disability-date salary shall be recomputed on October 1 each year to reflect upward or downward changes in the Consumer Price Index for Southeastern United States published by the Bureau of Labor Statistics, U.S. Department of Labor, for the previous twelve-month period.

(2) The maximum County disability payments and all other County-supported disability income shall not exceed one thousand five hundred dollars (\$1,500.00) per month, which shall be adjusted on October 1 each year to reflect upward or downward changes in the Consumer Price Index for the previous twelve-month period.

(3) The employee shall have been examined by one (1) or more County physicians and found to be disabled as defined in Section 2-56.22(b).

(4) The employee's disability shall have been determined to be service-connected by the Disability Panel and not due to: intentional self-inflicted injury; commission or attempt to commit by the disabled employee an unjustified or criminal assault, battery, or felony; intoxication; gross negligence; or any other misconduct causing the employee's disability. "Misconduct" is defined to be that conduct, which, in the determination of the Disability Panel, is a substantial deviation from the personnel rules, the orders or rules of the employee's supervisor, or other rules applicable to the course of conduct of the employee in the pursuit of his employment, and which is the proximate cause of the disability.

(5) Where a pre-existing condition, not attributable to or caused by a service-connected injury while serving as an employee of Miami-Dade County, is accelerated or aggravated by accidents arising out of and in the course of employment, only the acceleration or aggravation of disability reasonably attributable to the accident shall be considered.

[[~~(7)*~~]]>>(6)<< Disability payments shall be adjusted as required so that the total income from all other County-supported sources, secondary employment, and this program, shall not exceed one hundred (100) percent of disability-date salary.

[[* ~~Editors Note: There was no subsection (6) in this section of Ordinance No. 69-69, from which this division is derived.~~]]

~~[[8]]~~>>(7)<<Any high hazard employee, as defined by Chapter 122, Florida Statutes, who incurs a disability for which benefits under this division or Chapter 122, Florida Statutes are payable, shall have the option of electing to choose which benefits he shall receive. Exercise of this option must be made by the employee in writing prior to the earlier date on which he would be entitled to benefits under either this division or Chapter 122, Florida Statutes.

~~[[9]]~~>>(8)<<With the exception of an award made as hereinafter provided, no provision of this division shall constitute a vested right in any employee and the Board of County Commissioners expressly reserves the legislative prerogative to alter, suspend or terminate any provision of this division.

Sec. 2-56.25. Administration.

(a) The Disability Panel shall administer all matters arising under this program.

(1) The Disability Panel, on its initiative or upon the request of the employee, shall arrange for such physical examinations as are considered necessary, and shall determine an employee's eligibility for the benefits provided herein.

(2) The Panel will guide the disabled employee in the full and continuing use of available vocational rehabilitation services.

(3) The Panel shall be authorized to place a disabled employee in any vacant position normally not filled by promotion, for which the employee would be eligible because of background, education, training, experience, and other factors. For positions normally filled by promotional competitive examinations, the Panel may waive qualifications for the disabled employee. The ~~[[Personnel]]~~ Director >>of the Employee Relations Department<< shall provide for seniority points for disabled employees on such examinations.

(4) When placed in employment pursuant to Section 2-56.25(a)(3) the employee shall serve a normal probationary period and the department ~~[[head]]~~ shall submit periodic reports on the employee's performance to the Panel.

(5) Failure of an employee to submit to physical examinations, or to take employment examinations, or to accept suitable employment, or refusal to make use of vocational rehabilitation services shall result in automatic and permanent forfeiture of all benefits of this program.

(6) Recipients of disability payments under this program shall immediately report all changes in income from secondary employment and other County-supported disability payments to the Panel. Failure to provide such information when requested shall be cause for termination of benefits.

(7) ~~[[Recipients]]~~ >>Recipients<< of disability payments may be required by the Panel to submit annual Federal income tax returns or such other proof of income as may be acceptable to the Panel. Failure to provide such information when requested shall be cause for termination of benefits.

(b) Neither the awarding of other County-supported benefits, nor the acts of the Florida Industrial Commission or courts, nor other Florida Statutes, shall serve as presumptions for the decisions of the Disability Panel. In the absence of fraud an award or the denial or termination of an award by the Disability Panel shall be final and binding upon both the employee and Miami-Dade County.

(c) Payments authorized by this program and related procedural matters shall be administered by the ~~[[Insurance and Safety]]~~ >>Risk Management<< Division.

(d) Application for consideration under this plan may be initiated by the employee, his department head, or the Disability Panel, on forms provided by the ~~[[Personnel]]~~ Director >>of the Employee Relations Department<<.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be

changed to "section," "article," or other appropriate word.


Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:



Monica Maldonado

Sponsored by Commissioner Natacha Seijas and
Dr. Barbara Carey-Shuler